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VIA FACSIMILE NO.: 571-273-8300 (13 pages)
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Thorsten KRAWINKEL
Serial No. : 10/628,725
Filed : July 28, 2003
For : ADHESIVE AND ITS USE FOR AN AT LEAST ONE-LAYER PSA SHEET STRIP WHICH CAN BE REDETACHED WITHOUT RESIDUE OR DESTRUCTION BY EXTENSIVE STRETCHING SUBSTANTIALLY IN THE BOND PLANE
Art Unit : 1771
Examiner : Daniel R. Zirker

July 4, 2006

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' BRIEF ON APPEAL PURSUANT TO 37 CFR § 41.37

Sir:

This is an appeal from the final rejection of an Examiner of Art Unit 1771.

1. REAL PARTY IN INTEREST

The instant application is owned by tesa Aktiengesellschaft, record owner hereof.

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2. RELATED APPEALS AND INTERFERENCES

The undersigned is not aware of any appeals, interferences, reexaminations, infringement actions or the like in any related applications.

3. STATUS OF CLAIMS

The claims pending in this application are claims 1-17, and all of said claims are on appeal.

4. STATUS OF AMENDMENTS

The last amendment was that filed on July 5, 2005 (by facsimile) and that amendment was entered. There have been further responses since then, but no claim amendments. There are no outstanding amendments.

5. SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 1 relates to a novel adhesive for a pressure-sensitive adhesive sheet strip which is residuelessly and nondestructively redetachable by stretching in the bond plane, comprised of at least one block copolymer composed of one or two end blocks of vinyl aromatics, and a block composed of a conjugated diene, wherein the fraction of 1,2-linked diene is selectively hydrogenated (page 4, lines 3-9).

Independent claim 13 relates to a pressure-sensitive adhesive sheet strip having the adhesive of claim 1 (paragraph bridging pages 11 and 12).

6. GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

The grounds for rejection to be reviewed on appeal are

- A) The rejection of claims 1-16 under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Luhmann et al (US 6,004,665).
- B) The rejection claim 17 under 35 USC 103(a) as obvious over Luhmann et al (US 6,004,665)

7. ARGUMENTS

- A The rejection of claims 1-16 under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Luhmann et al

This application pertains to a novel adhesive based on styrene block copolymers, which is highly stable to aging and which can be used to create a connection which can be parted again by extensive stretching in the direction of the bond plane, and its use for a pressure sensitive adhesive (PSA) sheet strip.

The novel adhesive is comprised of a block copolymer having one or two end blocks composed of vinyl aromatics, and a block composed of a conjugated diene. In the conjugated diene, the fraction of 1,2-linked diene is selectively hydrogenated.

The Lühmann reference, at col. 3, lines 42-50, describes block copolymers

comprising polymer blocks formed from vinylaromatic compounds (A blocks) and those formed by polymerization of 1,3-dienes (D blocks). Lühmann further mentions, at col. 3, lines 48-50, that the resulting block copolymers may contain identical or different D blocks, which can be partially, selectively or completely hydrogenated.

Appellants previously pointed out that, insofar as Lühmann refers to his D blocks as being selectively hydrogenated, this would clearly be understood by those skilled in the art to mean that some D blocks are hydrogenated, and some are not. This is especially true when one considers that Lühmann's product can include different D blocks.

The D blocks which are hydrogenated are, however, polymer blocks.

In Appellants' invention, by contrast, as defined by the independent claim, it is the 1,2 linked diene that is selectively hydrogenated (i.e., all the dienes are not hydrogenated; only the 1,2 linked diene).

The Board's attention is respectfully drawn to the language found at page 7, first paragraph, of the specification, which reads as follows:

In the preparation of block copolymers based on vinylaromatics, preferably styrene and 1,3-dienes, especially isoprene and butadiene, both 1,2-linked and 1,4-linked dienes are incorporated into the diene block. The fraction of 1,2-dienes can be controlled by the solvent, the temperature or the catalyst. Since the 1,2-linked dienes contain a terminal double bond, while the double bond in the case of the 1,4-linked dienes is in the main chain, a selective hydrogenation of the terminal and hence more reactive double bonds is possible.

The Board's attention is also respectfully drawn to the dictionary meaning of the term "select" which, as indicated in the previously submitted print out from "Dictionary.com" is:

Singled out in preference; chosen.

Therefore, any person skilled in the art reading Appellants' claims would understand such claims to mean that the 1,2-linked dienes are selectively, i.e., preferentially, hydrogenated.

The Examiner, referring to the differences between the Lühmann reference and Appellants' claims, contends that:

"Finally, even if other moieties besides the fraction of 1,2-linked diene which is selectively hydrogenated are present in the adhesive composition this fact is simply irrelevant in view of his open ended claims."

However open-ended the Examiner thinks Appellants' claims may be, the fact is that the claims recite the selective hydrogenation of the fraction of 1,2-linked dienes, and the Lühmann reference neither teaches nor suggests anything at all about the selective hydrogenation of any specific dienes. Lühmann does not distinguish between 1,2-linked dienes and any other dienes that are present in Lühmann's D blocks.

The Lühmann reference cannot therefore possibly anticipate or suggest Appellants' claims, and the rejection of claims 1-16 under 35 U.S.C. 102(b) as

anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lühmann et al (US 6,004,665) should be REVERSED.

B) The rejection claim 17 under 35 USC 103(a) as obvious over Luhmann et al (US 6,004,665)

the Examiner contends that the Lühmann reference's teaching, at col. 4, lines 29-31, of polyisobutylenes, etc. "encompasses for purposes of obviousness the claimed SBBS polymers". For a reference to render a claim obvious, that reference must suggest the limitations of the claim. The expression "polyisobutylenes, etc." does not teach or suggest SBBS polymers. It is not reasonable to conclude that someone reading "polyisobutylenes, etc." is going to arrive at SBBS polymers, given that the expression "etc" cannot reasonably be seen as suggesting the whole of chemistry.

Moreover, even if somehow "polyisobutylenes, etc." was found to suggest SBBS, the presence of SBBS would not in any way overcome the differences discussed above with respect to the rejection of claims 1-16.

Appellants' claim 17 cannot therefore be seen as obvious over the Lühmann reference, and the rejection of said claim under 35 U.S.C. 103(a) as being unpatentable over Luhmann et al. (US 6,004,665) should now be REVERSED.

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8. CONCLUSION

Wherefore it is submitted that the final rejection is in error and should be REVERSED.

AUTHORIZATION TO CHARGE FILING FEE TO DEPOSIT ACCOUNT

Appellant is:

[] a small entity

[X] other than a small entity

It is requested that the fee for the filing of the Brief on Appeal be charged to the undersigned's Deposit Account No. 14-1263.

Please charge:

[] \$ 250.00 for small entity

[X] \$500.00 for other than small entity.

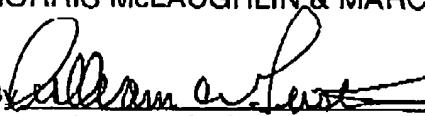
CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, appellant requests that this be considered a petition therefor. Please charge the required Petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess to our Deposit Account No. 14-1263.

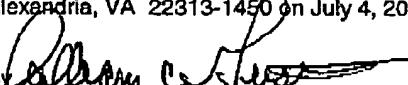
Respectfully submitted,
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- Patents, Commissioner for Patents, P.O. Box 1450,
Alexandria, VA 22313-1450 on July 4, 2006.

By 
William C. Gerstenzang
Date July 4, 2006

9. CLAIMS APPENDIX

The claims are appeal read as follows:

- Claim 1.** An adhesive for an at least one-layer pressure sensitive adhesive sheet strip which is residuelessly and nondestructively redetachable by extensive stretching substantially in the bond plane, said adhesive being comprised of at least one block copolymer having one or two end blocks composed of vinyl aromatics, and a block composed of a conjugated diene, wherein the fraction of 1,2-linked diene is selectively hydrogenated.
- Claim 2.** An adhesive as claimed in claim 1, containing from 20 to 70% by weight of styrene block copolymer, relative to the total adhesive.
- Claim 3.** An adhesive as claimed in claim 2, containing from 30 to 60% by weight of styrene block copolymer, relative to the total adhesive.
- Claim 4.** An adhesive as claimed in claim 3, containing from 35 to 55% by weight of styrene block copolymer, relative to the total adhesive.
- Claim 5.** An adhesive as claimed in claim 1, wherein the vinyl aromatics are partly hydrogenated styrene-isoprene-styrene block copolymers, styrene-butadiene-styrene block copolymers or a mixture of the two.
- Claim 6.** An adhesive as claimed in claim 1, comprising styrene block copolymers which are completely hydrogenated in the elastomer block and are based on styrene-ethylene/butylene-styrene and/or styrene-ethylene/propylene-styrene.
- Claim 7.** An adhesive as claimed in claim 1, wherein the vinyl aromatic block

copolymers are maleic anhydride-modified, silane-modified or epoxidized.

Claim 8. An adhesive as claimed in claim 1, wherein the block copolymers possess polystyrene endblocks.

Claim 9. An adhesive as claimed in claim 1, wherein the block copolymers comprise from 10% by weight to 35% by weight polyvinyl aromatics.

Claim 10. An adhesive as claimed in claim 9, wherein said block copolymers comprise from 15% by weight to 32% by weight polyvinyl aromatics.

Claim 11. An adhesive as claimed in claim 1, further comprising tackifier resins.

Claim 12. An adhesive as claimed in claim 1, comprising further components selected from the group consisting of plasticizers, aging inhibitors, processing assistants, fillers, dyes, optical brighteners, stabilizers, and endblock reinforce resins.

Claim 13. An at least one-layer pressure sensitive adhesive sheet strip which is residuelessly and nondestructively redetachable by extensive stretching substantially in the bond plane, having the adhesive of claim 1 on at least one side thereof.

Claim 14. The pressure sensitive adhesive sheet strip of claim 13, wherein said at least one-layer is two or three layers.

Claim 15. The pressure sensitive adhesive sheet strip of claim 13, wherein the adhesive sheet strip includes an intermediate foam carrier.

Claim 16. The pressure sensitive adhesive sheet strip of claim 14, wherein the adhesive sheet strip includes an intermediate foam carrier.

Claim 17. The adhesive of claim 1, wherein said at least one block copolymer is a styrene-butadiene-butylene-styrene block copolymer.

10. EVIDENCE APPENDIX

No evidence under §§ 1.130, 1.131, or 1.132 has been submitted.

11. RELATED PROCEEDINGS APPENDIX

There have been no decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 CFR 41.37